



7510-13

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice: [19-140]

### **Reporting Requirements Regarding Findings of Harassment, Sexual Harassment, Other Forms of Harassment, or Sexual Assault**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Request for public comment; Correction.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) is correcting a document that appeared in the Federal Register on July 10, 2019, concerning request for public comment on the Agency's proposed implementation of new reporting requirements regarding harassment among recipients of NASA financial assistance. The document that published was an incorrect version. This document is the correct version.

**DATES:** Comments must be received by [INSERT 30 DAYS FROM DATE PUBLISHED IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments should be addressed to National Space and Aeronautics

Administration Headquarters, 300 E Street S.W. Rm. 6087, Washington, DC 20546 or sent by email to [civilrightsinfo@nasa.gov](mailto:civilrightsinfo@nasa.gov); Phone Number: 202-358-2180, FAX Number: 202-358-3336.

We encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date. Please include “*Reporting Requirement Regarding Findings of Sexual Harassment, other Forms of Harassment, or Sexual Assault*” in the subject line of the email message; please also include the full body of your comments in the text of the message and as an attachment. Include your name, title, organization, postal address, telephone number, and email address in your message.

**FOR FURTHER INFORMATION CONTACT:** Richard N. Reback, email: civilrightsinfo@nasa.gov; telephone (202)358-2180.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the Federal Register of July 10, 2019, in FR Doc. 2019-14653, on page 32964 in the first column, correct the SUMMARY and SUPPLEMENTAY INFORMATION to read as follows:

SUMMARY: The many hundreds of U.S. institutions of higher education and other organizations that receive NASA funds are responsible for fully investigating complaints and for compliance with federal non-discrimination laws, regulations, and executive orders. The implementation of new reporting requirements is necessary as NASA seeks to help ensure research environments to which the Agency provides funding are free from sexual harassment, other forms of harassment, and sexual assault. Additionally, NASA is taking this action to bolster our policies, guidelines, and communications. The intended effect of this action is, first, to better ensure that organizations funded by NASA clearly understand expectations and requirements. In addition, NASA seeks to ensure that recipients of grants and cooperative agreements respond promptly and appropriately to instances of sexual harassment, other forms of harassment, and sexual assault.

**SUPPLEMENTARY INFORMATION:**

As a U.S. funding Agency of scientific research and development, and the primary funding Agency for aeronautics and space research and technology, NASA is committed to promoting safe, productive research and education environments for

current and future scientists and engineers. We consider the Principal Investigator (PI) and any Co-Investigator(s) (Co-I) identified on a NASA award and all personnel supported by a NASA award must not engage in harassing behavior during the award period of performance whether at the recipient's institution, on-line, or outside the organization, such as at field sites or facilities, or during conferences and workshops.

Upon implementation, the new term and condition will require recipient organizations to report to NASA any findings/determinations of sexual harassment, other forms of harassment, or sexual assault regarding a NASA funded PI or Co-I. The new term and condition will also require the recipient to report to NASA if the PI or Co-I is placed on administrative leave or if the recipient has imposed any administrative action on the PI or Co-I, or any determination or an investigation of an alleged violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. Finally, the award term and condition specifies the procedures that will be followed by NASA upon receipt of a report.

The full text of the new term and condition is provided below:

#### Reporting Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault

(a) The Principal Investigator (PI) and any Co-Investigator(s) (Co-I) identified on an NASA award are in a position of trust. These individuals must comport themselves in a responsible and accountable manner during the award period of performance, whether at the recipient's institution, on-line, or at locales such as field

sites, facilities, or conferences/workshops. Above all, NASA wishes to assure the safety, integrity, and excellence of the programs and activities it funds.

(b) For purposes of this term and condition, the following definitions apply:

1. Administrative Leave/Administrative Action: Any temporary/interim suspension or permanent removal of the PI or Co-I, or any administrative action imposed on the PI or Co-I by the recipient under organizational policies or codes of conduct, statutes, regulations, or executive orders, relating to activities, including but not limited to the following: teaching, advising, mentoring, research, management/ administrative duties, or presence on campus.
2. Finding/Determination: The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or Co-I, or a conviction of a sexual offense in a criminal court of law.
3. Other Forms of Harassment: Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.
4. Sexual harassment: May include but is not limited to gender or sex-based harassment, unwelcome sexual attention, sexual coercion, or creating a hostile environment, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

(c) The recipient is required to report to NASA: (1) Any finding/determination

regarding the PI or any Co-I that demonstrates a violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; and/or (2) if the PI or any Co-I is placed on administrative leave or if any administrative action has been imposed on the PI or any Co-I by the recipient relating to any finding/determination or an investigation of an alleged violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.<sup>1</sup> Such reporting must be submitted by the Authorized Organizational Representative (AOR) to NASA's Office of Diversity and Equal Opportunity at *civilrightsinfo@nasa.gov* within seven business days from the date of the finding/ determination, or the date of the placement of a PI or Co-I by the recipient on administrative leave or the imposition of an administrative action.<sup>2</sup>

(d) Recipient agrees to insert the substance of this term and condition in any subaward/subcontract involving a co-investigator. Recipient will be responsible for ensuring that all reports, including those related to co-investigators, comply with this term and condition.

(e) Each report must include the following information:

- NASA Award Number;

---

<sup>1</sup> Recipient findings/determinations and placement of a PI or Co-I on administrative leave or the imposition of an administrative action must be conducted in accordance with organizational policies and processes. They also must be conducted in accordance with federal laws, regulations, and executive orders.

<sup>2</sup> Such report must be provided regardless of whether the behavior leading to the finding/determination, or placement on administrative leave, or the imposition of an administrative action occurred while the PI or Co-I was carrying out award activities.

- Name of PI or Co-I being reported;<sup>1</sup>

*Type of Report:* Select one of the following:

- Finding/Determination that the reported individual has been found to have violated the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault;

or

- Placement by the recipient of the reported individual on administrative leave or the imposition of any administrative action on the PI or any Co-I by the recipient relating to any finding/determination, or an investigation of an alleged violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.

The recipient must also provide:

- A description of the finding/determination and action(s) taken, if any;
- and/or
- The reason(s) for, and conditions of placement of the PI or any Co-I on administrative action or administrative leave.

The recipient, at any time, may propose a substitute investigator if it determines the PI or any Co-I may not be able to carry out the funded project or activity and/or abide by the award terms and conditions.

In reviewing the report, NASA will consider, at a minimum, the following factors:

---

<sup>1</sup> Only the identification of the PI or Co-I is required. Personally identifiable information regarding any complainants or other individuals involved in the matter must not be included in the report.

- a. The safety and security of personnel supported by the NASA award;
  - b. The overall impact to the NASA-funded activity;
  - c. The continued advancement of taxpayer-funded investments in science and scientists; and
  - d. Whether the recipient has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made.
- (f) Upon receipt and review of the information provided in the report, NASA will consult with the AOR, or designee. Based on the results of this review and consultation, the Agency may, if necessary and in accordance with 2 CFR § 200.338, assert its programmatic stewardship responsibilities and oversight authority to initiate the substitution or removal of the PI or any Co-I, reduce the award funding amount, or where neither of those previous options is available or adequate, to suspend or terminate the award. Other personnel supported by a NASA award must likewise remain in full compliance with the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. With regard to any personnel not in compliance, the recipient must make appropriate arrangements to ensure the safety and security of other award personnel and the continued progress of the funded project. Notification of these actions is not required under this term and condition.

*End of Proposed Term and Condition*

*Implementation:*

Upon receipt and resolution of all comments, it is NASA's intention to implement the new term through revision of the NASA Agency Specific Requirements to the Research Terms and Conditions, the Grant General Conditions, and the Cooperative Agreement—Financial and Administrative Terms and Conditions. These revised terms and conditions will become effective thirty days from the date of publication in the Federal Register and will be available in the NASA Grants and Cooperative Agreement Manual (GCAM).

The new term and condition will be applied to all new NASA awards and funding amendments to existing awards made on or after the effective date. This new reporting requirement will apply to all findings/determinations that occur on or after the effective date of the terms and conditions. With regard to notification of placement on administrative leave, the recipient must notify NASA within seven business days from the date the recipient determines that placement on administrative leave is necessary.

Recipients are strongly encouraged to conduct a thorough review of the term and condition to determine whether the new reporting requirements necessitate any changes to the institution's policies and procedures. The new term and condition will be effective for any new award, or funding amendment to an existing award, made on or after the effective date. For these purposes, this means that any finding/determination, placement on administrative leave or the imposition of any administrative action by the institution made on or after the start date of an award or funding amendment subject to the new term will invoke the new reporting requirements.

Cheryl E. Parker  
NASA Federal Register Liaison Officer



